IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

WRIT PETITION NO.1778 OF 1999

Sarla Cooperative Housing Society Ltd..... Petitioners.
(a Co-operative Society registered
under Co-operative Societies Act,
1960 and having its office at Plot
No.29-A, Yari Road,Versova,Mumbai-61)

Versus

1. Municipal Corporation of Gr.Bombay
a Corporation established under the
Bombay Municipal Corporation Act,
1988 and having its office at
Municipal Building Mahapalika Marg,
Fort,Mumbai-400001.

2.Municipal Commissioner,
Municipal Corporation of Greater Bombay
having its office at Municipal building
Mahapalika Marg,Fort,Bombay-1.

3.Director (Engineering Service and
Projects)Deputy Chief Engineer
(B.P) W.S.having its office at
Municipal Offices building, R.K.Patkar
Marg, Bandra(W),Mumbai-50.

4.The State of Maharashtra,Mantralaya
Mumbai-20 .... Respondents

Mr.M.Janardhanan for the petitioner.
Mr. Vinod Mahadik for respondent nos. 1, 2 and 3.
Mr. R.J.Mane for respondent no.4.

CORAM: R.M.S.KHANDEPARKAR &
V.M.KANADE,JJ.
DATE : SEPTEMBER 27,2005.

-ORAL JUDGEMENT (PER R.M.S.KHANDEPARKAR,J)-

1. Heard. The petitioners challenge order dated 27th May 1999 passed by the Municipal Corporation. The impugned order has been passed solely on the ground that the petitioners had failed to show sufficient cause within 7 days from the date of receipt of show cause notice.

2. Upon hearing the learned advocates for the parties, it is not necessary to deal with all the points sought to be raised in the matter. Suffice it to observe that the Corporation was not justified in passing the order without considering the case of the petitioners and directing the petitioners to demolish the additional work, merely on the ground that the petitioners had failed to show cause within the period specified in the notice. Undisputedly, the matter relates to the construction of residential premises and there is already an approval granted by the Corporation. Merely because the petitioners had failed to file the reply within 7 days of receiving the show cause notice, the Corporation was not justified in revoking the approval granted earlier. The Corporation ought to have been considered the fact that there was already approval granted earlier by the competent authority.

3. In the result, therefore, the impugned order is liable to be quashed and set aside and the same is hereby quashed and set aside and the matter is remanded to the Municipal Corporation to consider the reply of the petitioners on its merits. The petitioners to file proper reply within a period of four weeks from today. If reply is filed within the aforesaid period, the Corporation shall consider the same within a period of four months from the date of filing of the reply in accordance with the provisions of law and after hearing

the petitioners, decision taken by the Corporation should be communicated to the petitioners immediately thereafter. In case, the decision taken by the Corporation happens to be adverse to the interest of the petitioners, the same shall not be given effect to for a period of four weeks from the date of service of the order upon the petitioners. The Rule is made absolute in above terms with no order as to costs.

(R.M.S.KHANDEPARKAR,J)

(V.M.KANADE,J)